### **DEPARTMENT OF FINANCE BILL ANALYSIS**

AMENDMENT DATE: July 1, 2008

POSITION: Oppose

July 1, 2008

BILL NUMBER: SB 1500

AUTHOR: C. Kehoe

**RELATED BILLS:** AB 2447 (Jones)

# BILL SUMMARY: CEQA: Fire Hazards: State Responsibility Areas

Existing law establishes the Board of Forestry and Fire Protection (Board) to determine which areas of the state should be designated as State Responsibility Areas (SRAs) for the purpose of providing wildland fire protection. This bill would require counties to notify the State Fire Marshal (SFM) of any proposal to build residential structures in SRAs for the purpose of reevaluating the fire protection responsibility designation. The bill would also prohibit a county from acting on a development project in SRA until it certifies that there would be adequate structural fire protection service.

### FISCAL SUMMARY

Historically, about 10,000 new residential dwellings are constructed in SRAs each year. The Department of Forestry and Fire Protection (CAL FIRE) estimates costs of \$4.7 million and 33 positions to meet the requirement to evaluate each proposed project to construct residential dwelling units in SRA. These costs would be reimbursed by project proponents. Statute does not require CAL FIRE to provide structural fire protection services in SRA. The requirement for the SFM to determine whether a proposed project should stay in SRA or become Local Responsibility Area (LRA) for the purpose of structural fire protection could result in determinations that the state should provide structural fire protection service. Additionally, it implies that the state has structural fire protection responsibilities in SRA unless the SFM changes that designation. It would cost tens of millions General Fund to provide structural fire protection services in SRA.

We note that existing statute does not explicitly require local governments to provide structural fire protection in SRAs. The requirement of the bill for a county to ensure sufficient structural fire protection before approving a project would not result in a reimbursable state mandate because the county would have the option of denying the project. The requirement for a county to notify the Board of any proposed residential development would result in a state mandate that would not be reimbursable because the county would be able to pass the notification costs to the project proponent.

## **SUMMARY OF CHANGES**

Amendments to this bill since our analysis of the April 9, 2008 version include the following significant amendments which do not change our position:

- The bill now requires the SFM instead of the Board to determine whether a project should change the designation of an area from LRA to SRA.
- The specific residential density level of one unit per 20 acres for designation as SRA for structural fire protection has been deleted.

(Continued)

### **COMMENTS**

Finance opposes this bill because it is unnecessary, would have significant General Fund costs, and could require CAL FIRE to assume new structural fire protection duties that would cost tens of millions annually. Additionally, determinations of local or state responsibility area would more appropriately be performed by the Board, not the SFM.

Analyst/Principal (0634) M. Almy	Date	Program Budget Manager Karen Finn	Date	
Department Deputy Di	rector		Date	
Governor's Office:	Ву:	Date:	Position Approved	
			Position Disapproved	
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)	

Form DF-43
BILL NUMBER

C. Kehoe July 1, 2008 SB 1500

This bill would require counties to notify the SFM of any proposal to build residential structures in SRAs to enable the SFM to reevaluate the fire protection responsibility designation. Beginning July 1, 2009, a county would be prohibited from approving a project in an SRA until the SFM either determines that it should remain in an SRA or should be a local responsibility for structural fire protection. The SFM would be required to consider residential density in making the determination. If the area remains SRA for wildland fire protection, but the SFM determines that structural fire protection should be a local responsibility, the county would be required to ensure that structural fire protection services are provided in one of three ways before approving the project: (1) creating a fire protection district, (2) having the land annexed into a city or special district that provides structural fire protection, or (3) entering into a contract with CAL FIRE to provide structural fire protection.

The SFM or Board does not currently designate lands for the purpose of structural fire protection. CAL FIRE is statutorily obligated to provide wildland fire protection services in SRA and provides structural fire protection as resources permit, but is not required to do so. By implying that CAL FIRE is responsible for structural fire protection in SRA unless otherwise designated by the SFM pursuant to a proposed development, the bill would result in a costly program expansion for CAL FIRE. CAL FIRE has no fire protection obligations in LRA or in Federal Responsibility Areas (federally owned lands). We note that local, state, and federal agencies provide assistance to each other in responding to major fires, and that assistance is governed by mutual aid agreements.

Every five years the Board takes an inventory of SRA and LRA and reevaluates how the state's lands should be designated for the purpose of wildland fire protection. The Board is not restricted to the five-year cycle and is authorized to change designations as necessary. All incorporated areas are automatically LRA. The Board designates non-incorporated lands as LRA or SRA based on population density and land-use factors. The Board uses three structures per acre as a general guideline in determining LRA/SRA designation, but also considers the total size of a community, proximity to other developed areas, and the ability of a community to provide fire protection service. More than three structures per acre would be LRA.

It is unclear why the bill is necessary because the Board already has the authority to designate lands as LRA if a project would make that designation more appropriate. Designating lands as LRA would remove the state's responsibility to provide fire protection services in that area. Additionally, determining whether structural fire protection should be a local responsibility would be a separate process from the LRA/SRA designation process because LRA/SRA designation is based on who should provide wildland fire protection. Under the provisions of the bill, the SFM could determine that structural fire protection should be a local responsibility based on a proposed project without designating the land as LRA for the purpose of wildland fire protection. That decision would not result in a reimbursable state mandate for local governments to provide structural fire protection services because the county would be authorized to deny the project.

### (Continued)

	SO	(Fiscal Impact by Fiscal Year)				
Code/Department	LA	(Dollars in Thousands)				
Agency or Revenue	CO	PROP				Fund
Type	RV	98	FC	2008-2009 FC	2009-2010 F	C 2010-2011 Code
3540/Forest&Fire	SO	No		Se	e Fiscal Summary	0001
3540/Forest&Fire	SO	No	С	\$0 C	\$4,700	\$4,700 0499
9000/Reimburs	RV	No	U	\$0 U	\$4,700 l	J \$4,700 0499

<u>Fund Code</u> <u>Title</u>

0001 General Fund

0499 Pending New Special Funds